

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA

Plaintiff,

VS.

No. CR 10-1534 JB

EDWARD CHRISTY,

Defendant.

**ORDER GRANTING DEFENDANT'S FIRST AGREED MOTION FOR
CONTINUANCE
AND ANNOUNCEMENT OF "NOT READY FOR TRIAL"**

This matter having come before the Court on Defendant's First Agreed Motion for Continuance and Announcement of "Not Ready for Trial," (Doc. 30), filed September 27, 2010.

The court having reviewed the motion and noting that the U. S. Attorney does not oppose the motion, finds that the motion is well taken and will be granted. The court specifically finds, pursuant to 18 U.S.C. § 3161(h)(7)(A), that the ends of justice served in granting the continuance outweigh the best interests of the public and the Defendant in a speedy trial. Furthermore, the Court finds that the Defendant has provided justifiable reasons in his motion to satisfy U.S. v. Toombs, 574 F.3d 1262(10th Cir. 2009). Here are those reasons:

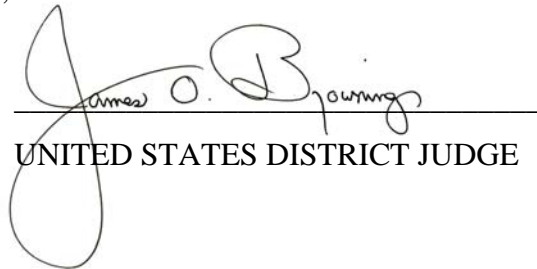
1. Mr. Christy was arraigned on the indictment in this case on June 3, 2010 and is in custody pending disposition.
2. The discovery in this case has been somewhat slow in coming, in part because of the Government's obligation to redact identifying matters, and in part because of the Defendant's inability to obtain expert review of the evidence against him up until the present.

3. Discovery is proceeding apace, and arrangements are being made for defense experts' review of the forensic computer evidence, as well as statements made by the complaining witness.
4. However, several matters remain to be accomplished which are necessary to providing Mr. Christy with effective assistance of counsel, including the above.
5. The attorney for Mr. Christy has spoken to the Assistant United States Attorney in charge of this case, and she agrees to this continuance.
6. Mr. Christy's attorney has a firm trial date on October 18, 2010 in the U.S. District Court in Albuquerque on another matter, but expects that the expert review of the Government's discovery production will take over sixty days to accomplish, and the Assistant U.S. Attorney in this matter will be unavailable during the week of Thanksgiving and much of December.
7. Without the continuance sought herein, Defendant's attorney will be unable to make a properly diligent investigation of the facts underlying this case, and will be unable to provide effective assistance of counsel.
8. This case was previously continued by agreement by Order dated July 12, 2010.
9. Pursuant to 18 USC Section 3161(h)(7)(A),(B)(i,ii &iv) and United States v. Toombs, 574 F.3d 1262 (10th Cir. 2009), Defendant has shown that the failure to grant the requested continuance would deny counsel for the Defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. U.S. vs. Medrano, No. 08-1272 (10th Cir., 12/7/2009).
10. Due to the inability of present counsel to complete trial preparations up to the time of this filing, the interests of justice served by granting this requested continuance outweigh the best

interest of the public and defendant in a speedy trial.

11. The failure to grant the requested continuance would very likely make the continuation of these proceedings impossible, and result in a gross miscarriage of justice (18 USC 3161(h)(7)(B)(I)), as present counsel would be proceeding blindly to trial without the slightest possibility of rendering effective assistance of counsel to the Defendant.
12. Defendant has not had the benefit of significant assistance of other attorneys since the granting of the continuance in July.
13. Defendant's counsel requests ninety days' continuance in this matter in order to obtain additional discovery, receive and review reports of newly available prosecution and defense witnesses, obtain issuance of process for defense witnesses, and make the necessary preparations for the trial of this matter.
14. This Motion is made in the ends of justice and so that substantial justice may be done in this matter, and not for mere delay.

IT IS THEREFORE ORDERED that the Jury Trial/Jury Selection presently set for October 18, 2010 is vacated and reset for, January 18, 2010 at 9:00 a.m. before the Honorable James O. Browning in the Vermejo Courtroom, Albuquerque, New Mexico.



UNITED STATES DISTRICT JUDGE